



# WISCONSIN REGULATORY DIGEST

A Publication of the  
**DEPARTMENT OF REGULATION AND LICENSING**  
**FOR CHARITABLE ORGANIZATIONS, PROFESSIONAL FUND-RAISERS**  
**Volume 12, No. 2 AND FUND-RAISING COUNSEL October, 2000**

## Statistics

The number of active licensees, as of September 15, 2000, is:

Registered Charitable Organizations	4,504
Registered Professional Fund-Raisers	51
Registered Fund-Raising Counsel	0

## Complaint Statistics

(January 1, 2000 to July 13, 2000)

Complaints Received – 7
Complaints Closed After Screening – 9
Complaints Closed After Investigation – 0
Complaints Closed With Discipline – 0

Note: The number of complaints closed includes some complaints received prior to 1999.

## Legislative Update

There is nothing in the hopper for legislative changes at this time. A new Legislature will commence in January. It remains to be seen what proposals will be introduced during 2001-2002.

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## CHARITABLE ORGANIZATIONS, PROFESSIONAL FUND-RAISERS AND FUND-RAISING COUNSEL

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### Case Screeners and Advisors:

Thomas L. Heine (Madison)  
Howard M. Schwartz (Brookfield)

### Administrative Staff:

Cletus J. Hansen, Division Administrator

### Executive Staff:

Marlene A. Cummings, Secretary  
William Conway, Deputy Secretary  
Myra Shelton, Executive Assistant

## Reminders

Financial reports or affidavits in lieu of financial reports are due 6 months following the end of a charitable organization's fiscal year. Not all charitable organizations conclude their fiscal year at the end of December; however, many of them do.

## Guidelines For Solicitations on the Internet

The use of the Internet for charitable solicitations has significantly expanded during the past year. The question facing charitable organizations is whether they have to register in one or more states where consumers can access and respond to their solicitations. The question facing regulators is whether and under what circumstances they may require registration and take legal action against a charitable organization.

The National Association of State Charity Officials (NASCO) has prepared and circulated a **draft** of what it calls "The Charleston Principles." These principles were initially discussed at a conference in Charleston, South

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Carolina, in 1999. They are intended to help charity officials develop reasonably consistent and constitutionally supportable policies for regulation of solicitations on the Internet.

The NASCO draft begins with several general statements. Those that particularly pertain to online solicitations are the following:

“Existing registration statutes generally, of their own terms, encompass and apply to Internet solicitations. The application of those statutes beyond more established fund-raising techniques, such as telephone, direct mail, and in-person solicitations, raises a number of issues that state charity officials are often called upon to address.”

“Consistent guidelines addressing online charitable solicitations will assist state charity officials, as well as donors, charities, and online entrepreneurs, throughout the nation. These principles have been adopted as guidance to state charity officials, but with the express intention of both creating a climate in which creativity and enterprise in the use of the Internet to support charitable activities is encouraged and in which the public interest is vigorously protected.”

The NASCO draft also lists a number of principles that govern the approach of regulators to online solicitations. Some of these principles are the following:

“The Internet can be a valuable and efficient forum for conducting charitable solicitations. State charity officials do not desire to discourage or limit its use.”

“The basic premise of these principles is this: Although existing state laws govern charitable solicitations on the Internet, in many instances the use of the Internet raises new questions that state charity officials must answer in order to effectively carry out their statutory missions. Therefore, state charity officials should require registration of those over whom their state courts could constitutionally assert personal jurisdiction to enforce a registration requirement. State charity officials and those

who solicit contributions using the Internet should note that in actions to enforce state laws against deceptive charitable solicitations, including fraud and misuse of charitable funds, jurisdiction typically exists over some organizations not required to register in the state.”

The NASCO draft offers the following recommendations:

“States will enforce the law against any entity whose Internet solicitations mislead or defraud persons physically located within a particular state, without regard to whether that entity is domiciled in the state or is required to register in that state pursuant to these principles.”

#### Entities That Are Domiciled Within the State

“1. An entity that is domiciled within a state and uses the Internet to conduct charitable solicitations in that state must register in that state. This is true without regard to whether the Internet solicitation methods it uses are passive or interactive, maintained by itself or another entity with which it contracts, or whether it conducts solicitations in any other manner.

2. An entity is domiciled within a particular state if its principal place of business is in that state.”

#### Entities That Are Domiciled Outside the State

The NASCO draft for entities that are domiciled outside of the state are more complex and are not printed in this Regulatory Digest. They have been nicely summarized by Karl Emerson, President of NASCO, as follows:

“When the entity is domiciled outside the state, they [the guidelines] recommend first inquiring as to whether the entity has sufficient non-Internet contacts to support jurisdiction. If so, the forum state’s registration requirements would be applicable. When the entity is domiciled outside the state but with insufficient non-Internet ties to support jurisdiction, the Principles apply a standard developed from the case law. This includes asking whether the entity operates an interactive Web sit, through which contributions can be made directly, or

merely a more passive site. If the site is interactive, then the Principles inquire as to whether the solicitation targets the state or otherwise generates a sufficient volume of contributions to support jurisdiction.”

#### General Exclusions from Registration

“1. Maintaining or operating a Web site that does not contain a solicitation of contributions but merely provides program services via the Internet -- such as through a public information Web site -- does not, by itself, invoke a registration requirement. This is true even if unsolicited donations are received.

2. Entities that provide solely administrative, supportive, or technical services to charities without providing substantive content, or advice concerning substantive content, are not required to register. Such service providers (a) include Internet service providers and entities that do nothing more than process online transactions for a separate firm that operates a Web site or provide similar services, but (b) do not include commercial fund raisers, commercial co-venturers, or fund-raising counsel. Administrative, supportive, or technical service providers may be required to register if they do more than simply provide such technical services and actually solicit, promote a Web site, or engage in other conduct that requires registration. Compensation for services based on the amount of funds raised may be a strong indication the entity is doing more than simply providing technical services.”

#### Principles Related to Minimizing Regulatory Responsibilities for Multi-State Filers

A. “State charity officials recognize that the burden of compliance by charitable organizations and their agents, professional fund raisers, commercial co-venturers and/or professional fund-raising counsel should be kept reasonable in relation to the benefits to the public achieved by registration. The acceptance and use of the Unified Registration Statement by state charity offices and the development and

acceptance of other related projects to create such common forms are strongly encouraged. “

B. “State charity officials recognize the power of the Internet to assist in the registration of charitable organizations and their agents. State charity offices are strongly encouraged to publish their registration and reporting forms, their laws and regulations, and other related information on the Internet to facilitate registration and reporting by charitable organizations and their agents while assuring proper public accountability by regulated entities.”

C. “State charity officials and charitable organizations have a mutual interest in exploring how to develop the information technology infrastructure so that registration and reporting can be accomplished electronically in the future. Collaboration on this project between state charity officials and charitable organizations, where appropriate, will advance the time frame for establishing electronic filing. This collaboration may include discussion of the types of information that entities soliciting through the Internet should be required to retain, so that these principles can be applied to a particular Web site. This would include information sufficient to determine, within the scope of the law and relevant donor privacy concerns, whether an entity's ties to a particular state are sufficient to give rise to a registration requirement.”

D. “Because disclosure to the public promotes informed giving, charitable organizations are encouraged to satisfy the IRS “widely available” standard by posting, without charge, their current Unified Registration Statement, their last three IRS Forms 990, and their complete IRS Form 1023 or 1024 application and resulting determination letter on their Web pages. Links to other sites that provide such information, including any relevant state agency, or other Web sites, are also encouraged. Such postings, however, do not currently fulfill any applicable registration requirements.”

Department of Regulation and Licensing  
Charitable Organizations and  
Professional Fund-Raisers  
P.O. Box 8935  
Madison, WI 53708-8935

# REGULATORY DIGEST

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## Telephone Directory

The telephone number for staff is:

**(608) 266-5511**

After dialing this number you may listen to a menu or you may immediately press one of the following extension numbers:

<b>Application Forms</b>	<b>Press 11</b>
<b>Complaints Against Licensees</b>	<b>Press 12</b>
<b>Whether A Person Is Licensed</b>	<b>Press 442</b>
<b>Application Processing &amp; Requirements</b>	<b>Press 441</b>
<b>Financial Reports</b>	<b>Press 441 or 442</b>
<b>Fax Number</b>	<b>(608) 267-3816</b>

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Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

## Wisconsin Statutes and Code

Copies of the Statutes and Administrative Code relating to charitable organizations and fund-raising can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated July 1999.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

**SECTION 444.11, WIS. STATS. ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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